

DEADLY FORCE ENCOUNTERS



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PLAINTIFF'S
EXHIBIT

Shaw 16

DEADLY FORCE DIRECTIVE 2.01

- Any Force which carries a substantial risk that it will proximately result in the death of a person.

POLICY STATEMENTS

GENERAL DIRECTIVE 2.01

- It is well established that police officers may use force to effect an arrest, to defend themselves, or to defend others. An officer should not desist from any official duty merely because resistance is offered. Police officers shall not use more force than is reasonable in a particular incident.

POLICY STATEMENTS

GENERAL DIRECTIVE 2.01

- Factors to be considered when determining the reasonableness of a use of force are:
 - The severity of the crime at issue.
 - Whether the suspect poses an immediate threat to the safety of the officer or others.
 - Whether the suspect is actively resisting arrest.
 - Whether the suspect is attempting to evade arrest by flight.

SCENARIO

- You are confronting an armed suspect, no cover available. He faces you with his gun at his side, pointed at the ground. Your gun is aimed at him and you're ready to shoot. He ignores your commands to drop his weapon.
- Are you justified in pulling the trigger before he makes any move to point his gun at you?

PRECONCEIVED IDEAS ABOUT WHAT A POLICE OFFICER IS & DOES



WHAT DID THESE MOVIES TEACH YOU?

- The good guys always win
- Bad guy shoots first
- Bad guys always miss
- Good guys hits are always accurate



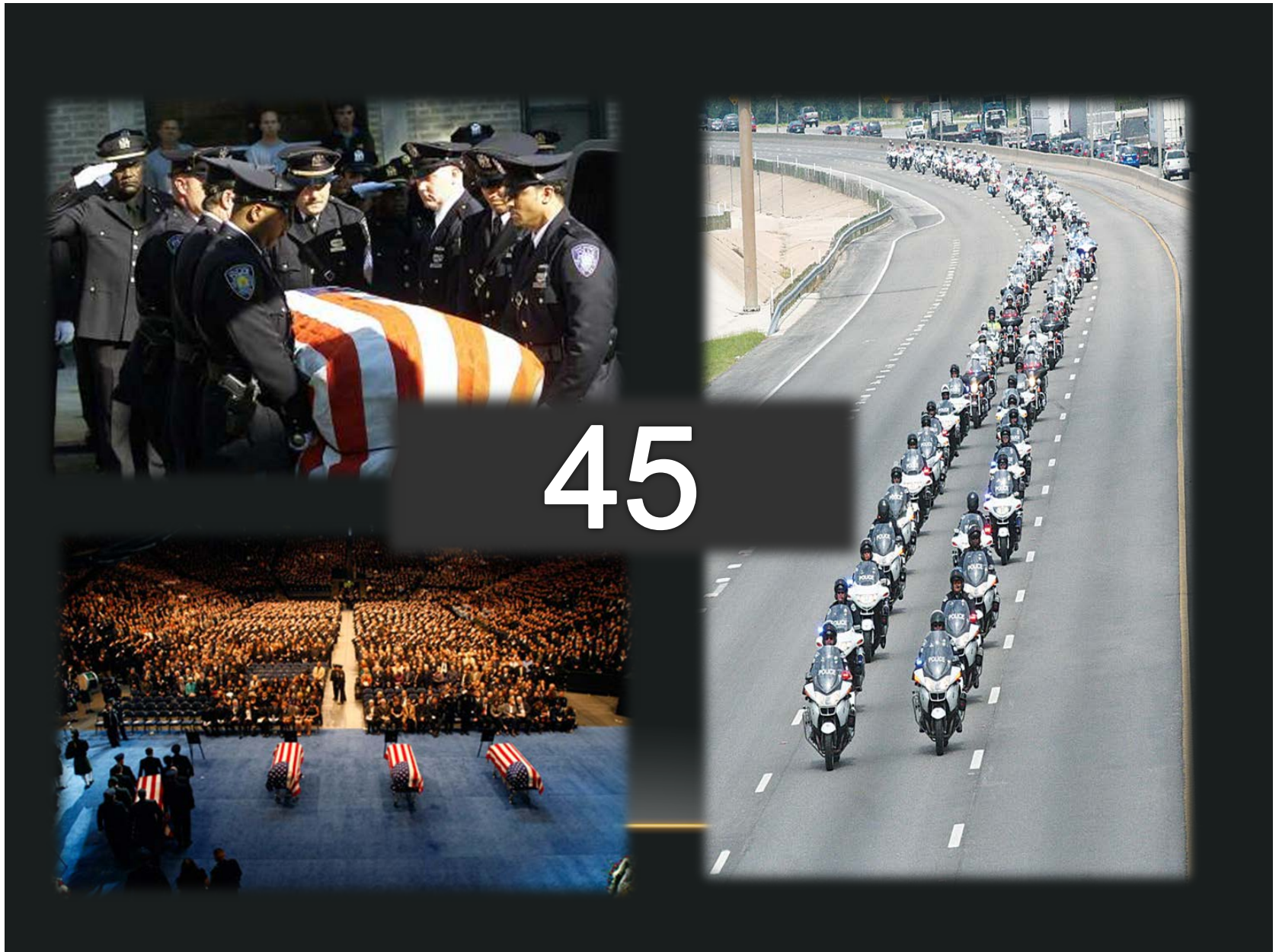
DO THE BAD GUYS ALWAYS MISS?



YOU ARE NOT A SUPER HERO









19 Gunfire

2009-2012 NATIONAL STATISTICS FROM THE FBI

- 224 police officers were murdered in the line of duty
- 58,207 police officers sustained injuries from assaults



ACTION BEATS REACTION

REACTION TIME

- RT- a measure of the time from the arrival of a suddenly presented and unanticipated signal to the beginning of the response to it

FACTORS THAT IMPACT REACTION TIME

- Sensory Pathway
 - Touch .120-.140sec
 - Sound .140-.160sec
 - Sight .180-.220sec
- Complexity of Event
 - Closed Environment – lab
 - Open Environment – Street
 - Stress
 - Focus of Attention
 - Complexity of Response

REACTION TIME TO A VISUAL STIMULUS

- The average trigger pull reaction time to a simple light stimulus
 - 31/100ths of a second
 - 25/100ths of a second - see the light
 - 6/100ths of a second – mechanical action of pulling the trigger

GUN AT CONSOLE/CROSS BODY/ DRIVERS WINDOW DISCHARGE

- 15/100ths of a second



GUN AT CONSOLE/CROSS BODY/PASSENGER'S WINDOW DISCHARGE

- 09/100ths of a second



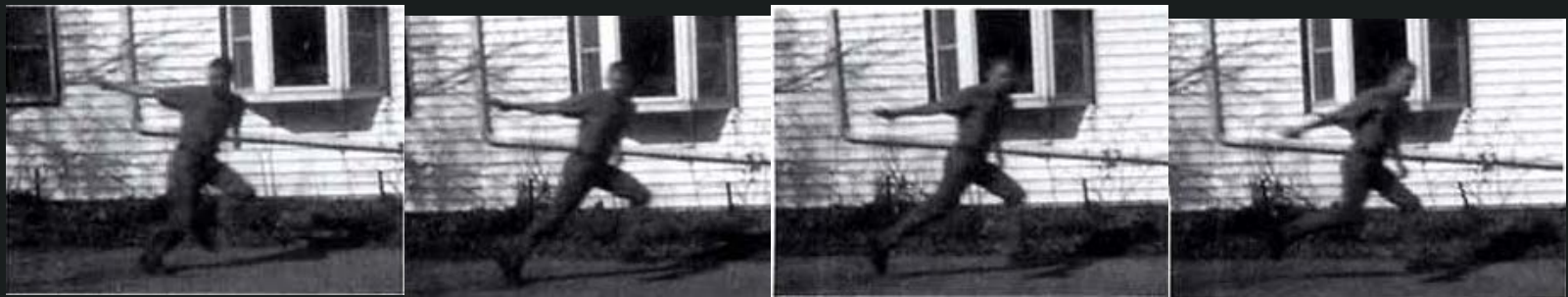
GUN IN WAISTBAND/COMBAT TUCK/DISCHARGE

- 09/100ths of a second



GUN EXTENDED BACK STRONG SIDE/DROP OFF TO SQUARE BACK

- 00/100ths of a second – fastest
- 04/100ths of a second - slowest



WHY IS THIS IMPORTANT TO LAW ENFORCEMENT OFFICERS?

- Officers do not know what persons actions will be
- Officers are reactionary
- Importance of Proper tactics



POLICE MYTH

- Officer must first be assaulted, before they can strike a suspect.
- A TRAINED FIGHTER CAN EASILY PUNCH SIX TIMES IN 1 SECOND OR TWO TIMES IN 1/3 OF A SECOND



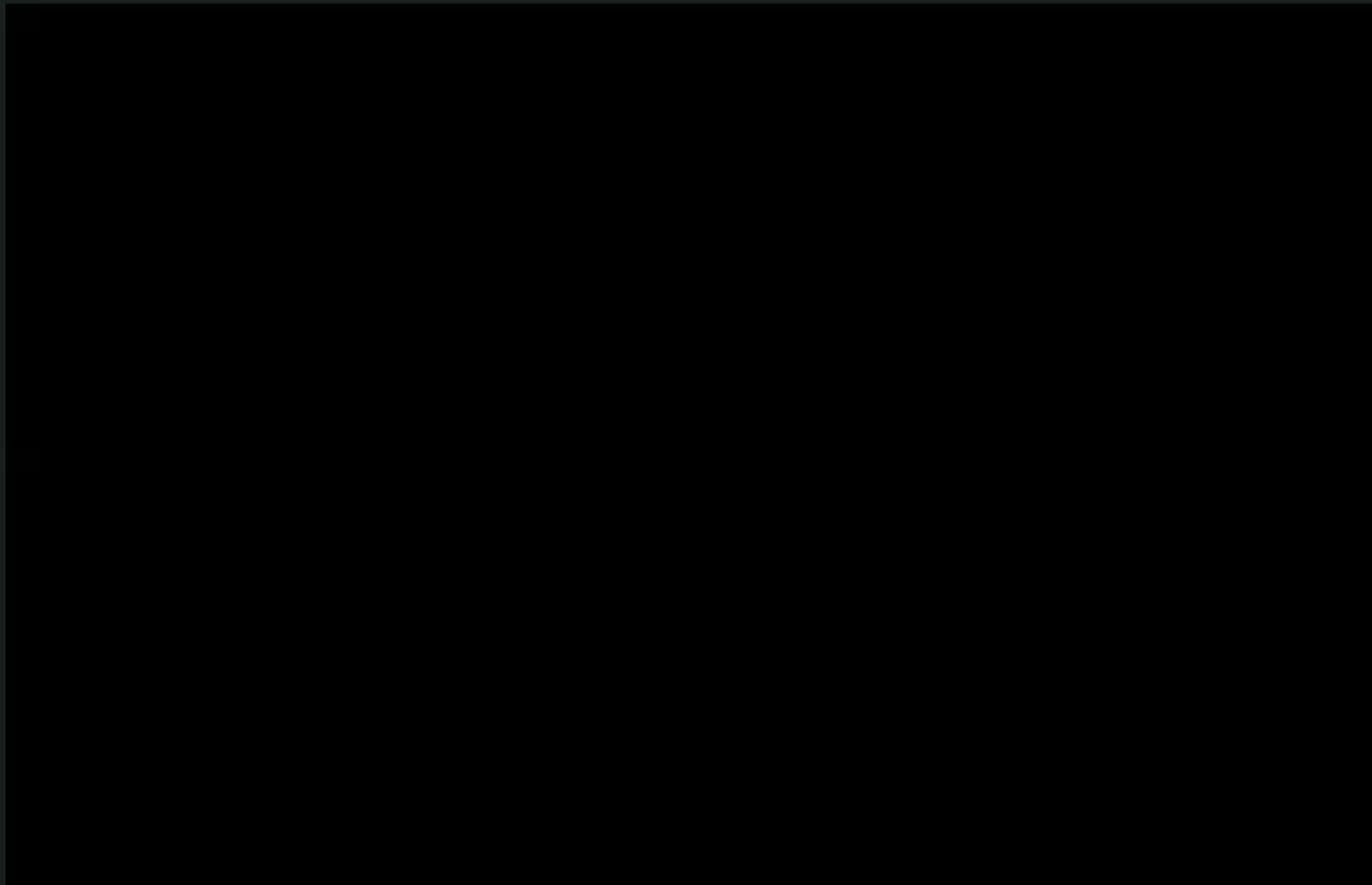
POLICE MYTH

- Officer must give a verbal warning of the intention to use deadly force.



POLICE MYTHS

- Officer's can not shoot anyone in the back



GUN EXTENDED BACK STRONG SIDE/ DROP OFF TO SQUARE BACK

- Fastest Time:
 - 00/100ths
- Average Time:
 - 14/100ths



“Why Is the Suspect Shot In the Back”, Bill Lewinski, Ph.D, [The Police Marksman](#) (November/December 2000)

40 % OF OFFICER INVOLVED SHOOTINGS
SUSPECT WAS TURNING AND SHOOTING

90 DEGREE TURN / WEAPON DISCHARGE / SQUARE BACK

- Fastest Time: 50/100ths of a second
- Average Time: 90/100ths of a second
- To square back: 37/100ths of a second



“Why Is the Suspect Shot In the Back”, Bill Lewinski, Ph.D, [The Police Marksman](#) (November/December 2000)

GUN AT CONSOLE / CROSS BODY/ DRIVER'S WINDOW DISCHARGE

- Fastest Time:
 - 15/100ths
- Average Time:
 - 25/100ths



“Why Is the Suspect Shot In the Back”, Bill Lewinski, Ph.D, [The Police Marksman](#) (November/December 2000)



WHY DIDN'T THE OFFICER SHOOT THE GUN
FROM HIS HAND?



POLICE MYTH

- Only one shot is needed to stop the threat of an armed suspect
 - 64% of gunshot victims with wounds to the chest and 36% of those with wounds to the head and neck can survive more than five minutes, some even able to perform strenuous activity and to continue to fight

- These unexpected medical responses occurred in the infamous FBI Miami Shootout in which two suspects who were shot in critical locations, including the spine, lung, and head, were able to continue to fighting, killing two FBI agents and wounding six more (Federal Bureau of Investigation, 1986)



WHY DID THE OFFICER SHOOT THEM 10 TIMES?

- The cadence of fire for the average police officer based on Force Science research is .25 seconds to fire a round. A cadence of four rounds per second is quite common

GOOD TACTICS CAN SAVE YOUR LIFE AND
THE LIVES OF OTHERS

LEGAL, TACTICAL, AND ETHICAL DECISIONS REGARDING USE OF FORCE SHOULD BE BASED ON THE FOLLOWING:

- State and Federal Law
 - Fourth Amendment
 - Fourteenth Amendment
 - Tennessee v. Garner
 - Graham v. Connor
 - Plakas v. Drinski

FOURTH AMENDMENT STANDARDS REQUIRE ALL USE OF FORCE TO BE REASONABLE

- Objective reasonableness standards
 - From the perspective of a reasonable officer
 - Not with 20/20 hindsight
 - What the officer knew at the time
 - Based on an objective standard

OBJECTIVELY REASONABLE?

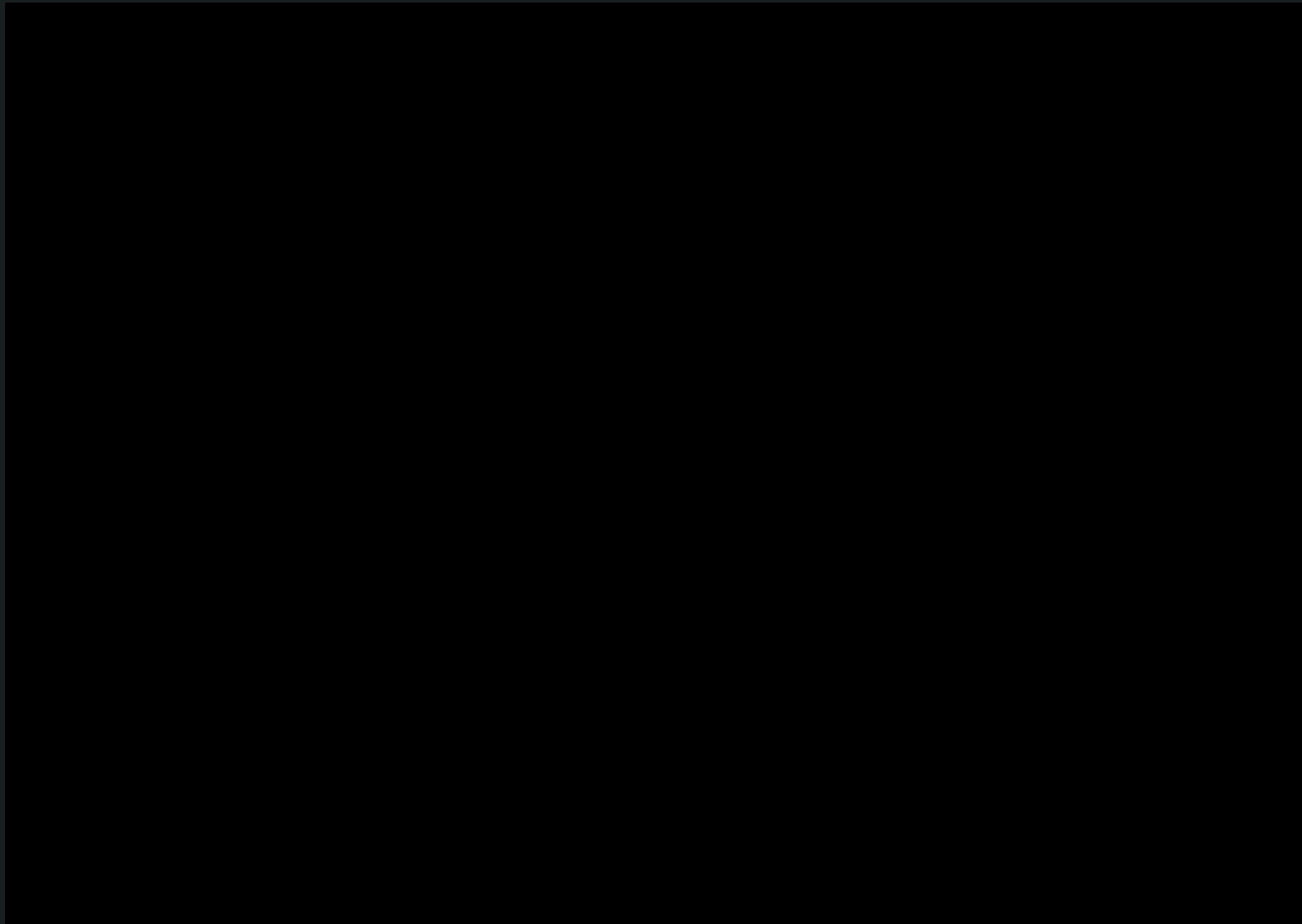


OBJECTIVELY REASONABLE?





OBJECTIVELY REASONABLE?



DISCUSSION

TENNESSEE V. GARNER (1985)

- The issue was whether use of deadly force to prevent the escape of an apparently unarmed subject was constitutional.

TENNESSEE V. GARNER (1985)

- Decision
 - The principle by which a use of deadly force case will be judged is the reasonableness requirement of the Fourth Amendment
 - Reasonableness depends not only on when the seizure is made but also on how it is carried out

TENNESSEE V. GARNER (1985)

- Decision
 - The use of deadly force to prevent the escape of **all** felony subjects, whatever the circumstances, is constitutionally unreasonable.
 - Where the subject poses no immediate threat to the officer and no threats to others, the harm resulting from failing to apprehend the subject does not justify the use of deadly force to do so.

GRAHAM VS. CONNOR 1989 SUPREME COURT CASE

- Facts
 - A diabetic brought a federal civil rights action under 42 U.S.C. 1983 seeking to recover damages for injuries allegedly sustained when law enforcement officers used physical force against him during the course of an investigatory stop.

GRAHAM VS. CONNOR 1989 SUPREME COURT CASE

- Determining whether the force used to affect a particular seizure is “reasonable” under the Fourth Amendment requires a careful balancing of the individuals rights and the rights of government
- Must be judged from the perspective of a reasonable officer
- Must allow for the fact that officers are often forced to make split-second judgments in situations that are tense, uncertain, and rapidly changing, about the amount of force that is necessary for a particular situation

GRAHAM VS. CONNOR 1989 SUPREME COURT CASE

- Three Prong Test

1. The severity of the crime at issue,
2. Whether the suspect poses an *immediate threat to the safety of the officers or others*, and
3. Whether he is actively resisting arrest or attempting to evade arrest by flight.

GRAHAM VS. CONNOR 1989 SUPREME COURT CASE

- **Self Defense:** a right common to all persons
- **Defense of Others:** a duty assigned to police personnel
- **Effectuate an Arrest:** a vested authority granted by law
- **Prevent an Escape:** a vested authority granted by law
- **Overcome Resistance:** a vested authority granted by law

ACTION-RESPONSE USE OF FORCE CONTINUUM

IMPORTANT -- The list of officer responses is **NOT** intended to be in any specific order, but reflects on the amount of resistance encountered. The officer will choose the necessary response to gain control of the situation based on departmental policy, his/her physical capabilities, perception, training, and experience.



OFFICER-SUBJECT FACTORS

1. Age
2. Sex
3. Size
4. Skill Level
5. Multiple Subjects/Officers
6. Relative Strength

SPECIAL CIRCUMSTANCES

1. Closeness of a Weapon
2. Injury or Exhaustion
3. Being on the Ground
4. Distance From the Subject
5. Special Knowledge
6. Availability of Other Options
7. Subject Handcuffed

Continuum of Arrest: Control - Handcuff - Search - Evaluate - Transport

DEPARTMENTAL POLICIES AND PROCEDURES

CPD

- 3.25 Use of Force
- 3.23 Firearm Regulations
- 3.91 Chemical Agents and Intermediate Weapons Regulations

CARE, CUSTODY AND CONTROL OF SUBJECT

- Techniques are used to defend and control only
- Techniques are used until the subject submits or surrenders

IN-CUSTODY DEATHS

- Once in custody, must protect them from themselves and others
- Must provide medical attention if needed and monitor the subject



Mom Sues Police After Son Dies While Taken Into Custody

Incident Date: October 2005
West Palm Beach, Florida

WHY DO WE TEACH DEFENSIVE TACTICS?

- Interpersonal communication skills infinitely more than arrest control techniques
- Officers use any degree of force in less than one out of every 2,500 calls for service



PREVALENCE OF POLICE-RELATED KILLINGS

- 2009-2012
- 56,259 Homicides in the United States
- 1,491 were the result of police use of force
- By comparison during the same time period:
 - 755 were the result of negligent accident homicides (i.e., child playing with a gun)
 - 1,120 were justifiable homicides by citizens acting in self-defense
 - 52,893 were criminal homicides (murders)

PREVALENCE OF POLICE-RELATED KILLINGS

- This suggests yearly averages of:
 - 372 persons killed each year by police use of force
- Compare this to the following averages:
 - 189 persons killed each year in negligent accidents
 - 280 persons killed each year in justifiable homicides by citizens acting in self-defense
 - 13,223 persons killed each year in criminal homicides (murders & manslaughters)
 - 373 persons are struck by lightning in the U.S. each year

PREVALENCE OF POLICE-RELATED KILLINGS

- This suggests yearly averages of:
 - **372 persons killed each year by police use of force**
- Compare this to these additional averages:
 - 35,900 persons killed each year in the U.S. in motor vehicle accidents*
 - 38,364 persons commit suicide in the U.S. each year**
 - 373 persons are struck by lightning in the U.S. each year***

* National Safety Council, Itasca, IL, Injury Facts, (2012). <http://www.nsc.org>

** <http://www.cdc.gov/violenceprevention/suicide/statistics/aag.html>

*** <http://www.usatoday.com/weather/resources/basics/wlightning.htm>

PREVALENCE OF POLICE-RELATED KILLINGS

- As the U.S. population is 316,128,839 persons, here are annual percentages:
 - 0.012% of the U.S. population committed suicide last year
 - 0.011% of the U.S. population died in a vehicle crash last year
 - 0.004% of the U.S. population died in a criminal homicide last year
 - **0.00012% of the U.S. population died from police use of force last year**
 - **0.00012% of the U.S. population was struck by lightning last year**
 - 0.00009% of the U.S. population was legally killed by a private citizen in self-defense last year

POLICE-RELATED KILLINGS AND BLACK MALES

- *Research Question: How many deaths of black men occur annually from police use of force?*
- *Research Question: How does the frequency of black male deaths from police use of force compare to other forms of homicide, suicide, and other unusual events?*

POLICE-RELATED KILLINGS AND BLACK MALES

- Of the 1,491 persons that died from police use of force from 2009-2012:
 - *915 (61.4%) were white males*
 - 481 (32.2%) were black males
 - 48 (3.2%) were males of other races
 - 28 (1.9%) were white females
 - 15 (1.1%) were black females
 - 4 (0.2%) were females of other races
- *The majority of those who died from police use of force during this time period were white males, not black males.*

POLICE-RELATED KILLINGS AND BLACK MALES

- Of the 56,259 homicides from 2009-2012, 19,000 (33.8%) were killings of black males.
- Comparisons by types of homicides of black males:
 - *481 (2.5%) were the result of police use of force*
 - 152 (0.8%) were the result of a negligent accident homicides (i.e., child playing with a gun)
 - 648 (3.4%) were the result of a justifiable homicides by private citizens acting in self-defense
 - 17,719 (93.3%) were criminal homicides (murders)

Private citizens killed a quarter more black males in justifiable homicides than did police use of force

POLICE-RELATED KILLINGS AND BLACK MALES

- While only 6% of the U.S. population is identified as black and male, 57.9% of the persons legally killed by a private citizen in self-defense were black males.
- However, 73.1% of the black males legally killed by a citizen in self-defense between 2009-2012 were killed by a black citizen.
- Heartbreakingly, due to a variety of societal factors, black males are disproportionately involved in violent crime, especially against black citizens.

POLICE-RELATED KILLINGS AND BLACK MALES

- 42.6% of victims of all solved criminal homicides from 2009-2012 were black males
- 89.6% of black males killed in criminal homicides from 2009-2012 were killed by another black male
- 40.6% of the police officers murdered in the line of duty from 2009-2012 were killed by black males*
- *In spite of these statistics, only 32.2% of the deaths from police use of force from 2009-2012 involved black males*

* www.fbi.gov/about-us/cjis/ucr/leoka

POLICE-RELATED KILLINGS AND BLACK MALES

- These data suggest yearly averages of:
 - **120 black males are killed each year by police use of force**
- Compare this to the following averages:
 - 38 black males are killed each year in negligent accidents
 - 162 black males are killed each year in justifiable homicides by citizens acting in self-defense
 - 4,166 black males are killed each year in criminal homicides (murders & manslaughters)

POLICE-RELATED KILLINGS AND BLACK MALES

- As there are approximately 20,864,500 black males in the U.S., here are annual percentages:
 - 0.020% of all black males died in a criminal homicide last year
 - 0.012% of all black males committed suicide last year
 - 0.011% of all black males died in a vehicle crash last year
 - 0.00078% of all black males died by a private citizen acting in self-defense
 - **0.00078% of all black males died from police use of force last year**

Black males in the U.S. are killed just as frequently by (mostly black) private citizens acting in self-defense as they are killed by police use of force.

POLICE-RELATED KILLINGS AND BLACK MALES

- *Research Question: How does the frequency of black male deaths from police use of force compare to other forms of homicide, suicide, and other unusual events?*
- Answer: While black males are disproportionately involved in violent crime, the vast majority of people killed by police use of force (67.8%) are not black males.
- Answer: Black males are 35 times more likely to be killed in a criminal homicide, 20 times more likely to die in a vehicle crash, 21 times more likely to commit suicide, and equally likely to be killed in self-defense by a black citizen as they are to be killed by the police.

LEGITIMATE POLICE USE OF LETHAL FORCE

- *Research Question 5:* How often should the police legitimately be using lethal force?
- In other words, based on the limits of the law, how frequently should we expect police use of lethal force to legally occur?

LEGITIMATE POLICE USE OF LETHAL FORCE

- In *Tennessee v. Garner* (1985) and other cases, the U.S. Supreme Court specified that the police officers may use lethal force when reasonable and necessary to prevent imminent serious bodily injury.
- The legal definition of serious bodily injury is:
“Injury that involves substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.”*

* www.lectlaw.com

LEGITIMATE POLICE USE OF LETHAL FORCE

- According to national statistics gathered by the FBI, from 2009-2012 a total of 58,207 police officers sustained injuries from assaults and another 224 police officers were murdered in the line of duty.*
- This is greater than the seating capacity of a typical college football stadium.



* www.fbi.gov/about-us/cjis/ucr/leoka

LEGITIMATE POLICE USE OF LETHAL FORCE

- *These figures suggest an annual average of 14,552 officers injured, and 56 officers killed each year in assaults while on duty.*

LEGITIMATE POLICE USE OF LETHAL FORCE

- Not all of the injuries sustained by police officers in these assaults may meet the legal definition of serious bodily injury, but many of them do.
- Furthermore, as lethal force may legally be used when there is simply the *threat of imminent serious bodily injury* without any injury actually resulting (such as pointing a loaded gun at a police officer), the figures on officers injured and killed are a very conservative estimate of circumstances permitting the legitimate use of lethal force.

LEGITIMATE POLICE USE OF LETHAL FORCE

- So, while it can be estimated that police officers sustain bodily injuries or death from assaults in approximately 14,600 incidents a year, in response only an average of 372 persons die each year as a result of police use of force.
- This would suggest significant restraint on the part of police officers nationwide with regard to the use of deadly force, not an epidemic of police-initiated killings in the U.S.

WE HAVE 28 WEEKS TO TAKE YOU FROM
CIVILIAN
TO OFFICER

